

EXHIBIT 35

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UNITED STATES DISTRICT COURT

DISTRICT OF MINNESOTA

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In Re:

Bair Hugger Forced Air Warming

Products Liability Litigation

This Document Relates To:

All Actions

MDL No. 15-2666 (JNE/FLM)

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DEPOSITION OF RICHARD P. WENZEL, M.D., MSc.

VOLUME I, PAGES 1 - 370

AUGUST 4, 2017

(The following is the deposition of RICHARD P. WENZEL, M.D., MSc., taken pursuant to Notice of Taking Deposition, via videotape, at the Hausfeld law firm, 1700 K Street Northwest, Suite 650, in the City of Washington, District of Columbia, commencing at approximately 9:08 o'clock a.m., August 4, 2017.)

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<p>1 A. I've heard that there are case reports like 2 that, yeah. I can't cite any. 3 Q. But you've heard of it; right? 4 A. Yeah. 5 Q. And you don't disagree with it. 6 A. If it's a real report, it's a real report, 7 that's what happened. 8 Q. And -- And -- 9 A. But what I'm saying is some -- it's really 10 hard as a clinician, facing those patients, was that 11 patient infected at the time of surgery, just so we're 12 clear, or did they went to the dentist, they have 13 horrible teeth, they had a -- you know, some 14 manipulation in the mouth and they got a secondary 15 bacteremia and they settled on the prosthesis. Five 16 years out you can't tell. 17 Q. Well you know that secondary bacterium 18 theory is under a lot of dispute. 19 A. It might be under dispute, but I'm telling 20 you as a clinician standing in front of the patient. 21 Q. Okay. I understand that, but it's not 22 settled whether or not secondary bacterium from the 23 mouth causes a periprosthetic joint infection. You've 24 read articles -- 25 A. That's the deba --</p>	<p>1 likelihood that computer monitors cause a 2 surgical-site infection, or the fans in them cause a 3 surgical-site infection is very low. 4 A. Yeah. I haven't seen any data linking them. 5 Q. Okay. And you agree with me that the 6 computer console and the equipment in them, the 7 likelihood of them causing a surgical-site infection 8 is very low. 9 A. And again I can't cite any papers that link 10 them, yeah. 11 Q. So you agree with me. 12 A. Yeah. 13 Q. Okay. You agree with me that the 14 electrocautery device itself has a very low likelihood 15 of causing a surgical-site infection. 16 A. Based on not having any data, yeah. 17 Q. So you agree with me. 18 You agree with me that a bovie is very 19 unlikely to cause a surgical-site infection. 20 MR. COREY GORDON: Object to the form of 21 the question, also I guess that's asked and answered. 22 A. I just -- Yeah, I just don't know any data 23 with the bovie or the knife or... 24 Q. You agree with me that sterile surgical 25 drapes are very unlikely to cause a surgical-site</p>
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<p>1 There's a debate going on as to whether or 2 not these patients should all be screened by their 3 oral surgeons or not beforehand because it's a worry. 4 Q. Okay. And since you believe that the most 5 likely cause of a surgical-site infection is patient 6 flora, then you would agree with me that the 7 likelihood that the anesthesia machine caused a 8 surgical-site infection is very low. 9 MR. COREY GORDON: Object to the form of 10 the question. 11 A. In general I think that's true. 12 Q. Okay. 13 A. Would there be an exception, an outbreak or 14 something like that where something happened? Yeah. 15 But that's what I would say in general, yes, I think 16 it's low. 17 Q. We're talking probabilities here. 18 A. Yeah. No, I'm with you. 19 Q. And you agree with me that the probability 20 that a surgical light causes a surgical-site infection 21 is very low. 22 (Interruption by the reporter.) 23 A. Yeah, I don't think I've seen any studies 24 related to that. 25 Q. And you'd agree with me that comput -- the</p>	<p>1 infection. 2 MR. COREY GORDON: Object to the form of 3 the question. 4 A. I would say that anything sterile is 5 unlikely to cause an infection. 6 Q. You agree with me that the cabinets along 7 the walls are very unlikely to cause a surgical-site 8 infection. 9 A. Same answer. I haven't seen any data. I 10 think it's unlikely. 11 Q. You agree with me that the suction drain 12 that's in the operating room is very unlikely to cause 13 a surgical-site infection. 14 A. Yeah, I think drains have been known to 15 harbor certain organisms like Pseudomonas, but again, 16 if you say standard procedures that have been, you 17 know, done to try to minimize that, I think it's 18 unlikely. 19 Q. And when I ask you these questions, doctor, 20 let's just assume that the hospital, the doctors and 21 the nurses are following the standard of care. 22 A. I'm with you. 23 Q. Okay. 24 A. I'll follow that. 25 Q. Okay. Like, for example --</p>

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<p>1 A. I like infection control, so I'm with you.</p> <p>2 I'll imagine the perfect hospital.</p> <p>3 Q. Okay. Like, for example, we're not</p> <p>4 expecting a nurse to take off her mask and sneeze</p> <p>5 right into the surgical site, you know, okay?</p> <p>6 A. I would hope so.</p> <p>7 Q. Okay. You agree with me that sterilized</p> <p>8 surgical instruments are very unlikely to cause a</p> <p>9 surgical-site infection.</p> <p>10 MR. COREY GORDON: Object to the form of</p> <p>11 the question.</p> <p>12 A. Yeah, in general again, anything sterile.</p> <p>13 Now once they're used they're no longer sterile, but,</p> <p>14 yes, I think that's true, and I agree with you.</p> <p>15 Q. Yeah, I understand that when you cut the</p> <p>16 skin they may no longer be sterile; correct?</p> <p>17 A. Yes. That's correct.</p> <p>18 Q. However, you do understand that in</p> <p>19 orthopedic implant surgeries the standard of care is</p> <p>20 after you make the first incision -- or some surgeons</p> <p>21 would say after you make the first incision to switch</p> <p>22 the scalpel.</p> <p>23 A. Yes.</p> <p>24 MR. COREY GORDON: Object to the form of</p> <p>25 the question, lack of foundation, assumes facts not</p>	<p>1 show a link with particles and surgical-site</p> <p>2 infections.</p> <p>3 Q. Have you read Dr. Mont's expert report?</p> <p>4 A. Yes, I did look at that.</p> <p>5 Q. Okay.</p> <p>6 A. Yeah.</p> <p>7 Q. Do you criticize anything in his report?</p> <p>8 A. Yeah, I don't think I saw anything that I'd</p> <p>9 criticize.</p> <p>10 Q. Okay. Do you believe that -- Have you read</p> <p>11 --</p> <p>12 Have you read all the defense expert</p> <p>13 reports, all the -- all 12 others?</p> <p>14 A. No, I don't think I read 12.</p> <p>15 Q. Okay. Have you read Dr. Ho's expert report?</p> <p>16 A. No, I didn't see that.</p> <p>17 Q. Have you read Dr. Kuehn's expert report?</p> <p>18 A. No.</p> <p>19 Q. Have you read Dr. Abraham's expert report?</p> <p>20 A. No.</p> <p>21 Q. So what expert reports have you read? Dr.</p> <p>22 Borak?</p> <p>23 A. Borak, Holford.</p> <p>24 On this side of the table you mean?</p> <p>25 Q. Yes.</p>
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<p>1 in evidence.</p> <p>2 THE WITNESS: Sorry.</p> <p>3 Q. The drop buckets for a used sponge, do you</p> <p>4 agree with me that they're very unlikely to cause a</p> <p>5 surgical-site infection?</p> <p>6 A. Again I'll say the same thing, you know, I</p> <p>7 don't know any data, so I think it's low probability.</p> <p>8 Q. And same question with the trash receptacle.</p> <p>9 You agree with me the trash receptacle is very</p> <p>10 unlikely to cause a surgical-site infection.</p> <p>11 A. Yes.</p> <p>12 Q. And do you agree with me that surgeons</p> <p>13 moving their hands is very unlikely to cause a</p> <p>14 surgical-site infection?</p> <p>15 MR. COREY GORDON: Object to the form of</p> <p>16 the question.</p> <p>17 A. So a surgeon doing surgery is moving his</p> <p>18 hands.</p> <p>19 Q. He's moving his hands like this</p> <p>20 [demonstrating].</p> <p>21 A. Yeah. And is that a cause, assuming that</p> <p>22 nothing else is happening? Yeah, I don't think the</p> <p>23 movement of hands. Now people talk about the movement</p> <p>24 of hands creating more particles and whether that's</p> <p>25 linked, we talked about that earlier. It's hard to</p>	<p>1 A. Mont. I'm not sure who else. I think that</p> <p>2 -- that may be it, I don't remember.</p> <p>3 Q. Have you met Dr. Mont?</p> <p>4 A. Just at Science Day is the only time.</p> <p>5 Q. Have you met anyone from 3M in preparation</p> <p>6 of your expert report?</p> <p>7 A. No.</p> <p>8 Q. Have you not met Al Van Duren?</p> <p>9 A. No.</p> <p>10 Q. Have you read Al Van Duren's deposition?</p> <p>11 A. No.</p> <p>12 Q. You haven't read his 30(b)(6) deposition?</p> <p>13 A. No.</p> <p>14 Q. Do you know what a 30(b)(6) --</p> <p>15 A. No, --</p> <p>16 Q. -- deposition is?</p> <p>17 A. -- have no idea.</p> <p>18 Q. So have you --</p> <p>19 Have you read Gary Hansen's deposition?</p> <p>20 A. No.</p> <p>21 Q. Have you read any other --</p> <p>22 Have you read any other depositions besides</p> <p>23 expert depositions?</p> <p>24 A. No, I don't think so.</p> <p>25 Q. Well that's not exactly true, --</p>